



Entered on Docket
November 15, 2010

A handwritten signature in black ink, appearing to read "Michael S. McManus".

Hon. Michael S. McManus
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

IN RE:

Case No.: BKN10-53497

ESPOSITO, CATHERINE E. and
SANCHEZ, DAVID

Chapter: 13

Hearing Date: Nov. 5, 2010
Hearing Time: 2:00
Time for Hearing: 5 minutes

Debtor(s)

ORDER TO VALUE COLLATERAL

THIS MATTER having come before the Court for a hearing on November 5, 2010, on Debtor's Motion to Value Collateral, with no opposition being filed, and based upon the papers and pleadings on file herein, and good cause appearing; the Court finds as follows:

1. The Debtor's principal residence located at 5861 Royal Vista Ct, Reno, Nevada 89523, is valued at \$ 167,500.00 as of the date of Debtor's Chapter 13 Petition.
2. The Subject Property is collateral for a senior secured claim of WELLS FARGO HOME MORTGAGE. ("Senior Lienholder"). Senior Lienholder has filed a Proof of Claim # 9 related to such claim, and such Proof of Claim claims a debt of \$ 255,903.94. Senior Lienholder's Proof of Claim indicates that Senior Lienholder has assigned reference # xxxxx9311 to this claim.
3. The Subject Property is also collateral for a junior secured claim of CAPITAL ONE HOME LOANS, INC. assigned to CITIMORTGAGE, ("Junior Lienholder"). Junior Lienholder has filed a Proof of Claim # 5 related to such claim, and such Proof of Claim claims a debt of \$ 29,052.10. Junior Lienholder's Proof of Claim

1 indicates that Junior Lienholder has assigned account # 9970 to this claim.

- 2 4. Given the above, Junior Lienholder's interest in the Debtor's interest in the Subject
3 Property has no value.

4 THEREFORE, IT IS HEREBY ORDERED THAT, pursuant to Zimmer v. PSB
5 Lending Corp. (*In re Zimmer*), 313 F.3d 1220 (9th Cir. 2002), and U.S.C. §§ 506(a) and 506(d),
6 Junior Lienholder's claim is unsecured, and shall be treated as unsecured for all purposes in this
7 case, including the manner in which such claims is treated and paid in Debtor's Chapter 13 plan;
8 and

9 IT IS FURTHER ORDERED THAT, should Debtor receive a discharge in this case, Junior
10 Lienholder shall as soon as practicable therefore take all necessary and appropriate steps to remove
11 its lien of record, and to ensure that Debtor's title to the Subject Property is clear of any cloud on
12 title related to Junior Lienholder's claim. This court hereby reserves jurisdiction with respect to any
13 dispute over the actions necessary to comply with this paragraph; and

14 IT IS FURTHER ORDERED THAT, should this case be converted to one under another
15 chapter, 11 U.S.C. § 348(F) shall govern the continued validity of this order; and

16 IT IS FURTHER ORDERED THAT, should this case be dismissed, 11 U.S.C. § 349(B)(1)-
17 (3) shall govern the continued validity of this order; and

18 IT IS FURTHER ORDERED THAT nothing in this order shall be deemed to be an
19 allowance or disallowance of any claim of Senior Lienholder or Junior Lienholder, and any party
20 in interest, including the Debtor or the Trustee, may hereafter object to either claim on any ground
21 recognized by the Bankruptcy Code.

22 IT IS SO ORDERED.
23
24
25
26

27 ###
28